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Alexandria VA 22314

In re Application of  
Eglit  
Application No. 08/474,416  
Filed: June 7, 1995  
Attorney Docket No. 2069-053

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: DECISION DISMISSING  
: PETITION  
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This is in response to the petition filed March 26, 1997, which has been treated as a petition under 37 CFR § 1.183 to waive the requirement of 37 CFR 1.64 that the supplemental declaration be signed by the inventor. 37 CFR § 1.47 is only available when an application is filed without an oath or declaration signed by each joint inventor. Since on filing the above-identified application included a declaration signed by the sole inventor, Rule 47 is not available.

The petition is dismissed.

The above-identified application was filed on June 7, 1997 with a declaration signed by the sole inventor Alexander Juluan Eglit. The copy of the declaration was not an original copy, but instead was a facsimile copy.

On December 26, 1996, an Office action was mailed. The Office action objected to the declaration and required the original declaration.

A facsimile copy of a declaration may be filed. See, for example, 37 CFR 1.4(d)(2) and Manual of Patent Examining Procedure (MPEP), Sections 502.02, and 601.01(a). The examiner has not questioned the authenticity of the copy submitted and nothing in the record suggests that the copy submitted is not authentic. Accordingly, the requirement that the original copy of the declaration be submitted is withdrawn.

It is noted that the declaration, filed June 7, 1995, refers to an attached specification, but that the copy of the specification was not submitted by facsimile. In accordance with MPEP, Section 601.01(a), left column, second complete paragraph, item (1), the declaration is considered to

adequately identify the application papers. Accordingly, the declaration complies with 37 CFR 1.63.

However, in the event that a supplemental declaration under 37 CFR 1.67 is required in the future, the declaration would be required to be signed by the assignee or someone authorized by the assignee to sign the declaration. (It is noted that the "Substitute Declaration," filed March 26, 1997, is NOT signed.) Furthermore, evidence would be required to be submitted which explains why justice requires waiver of the rules (supporting any petition under 37 CFR 1.183) to permit that assignee to sign on behalf of the inventor. See MPEP section 603. In the instant application, the "redacted declaration" of Shirley Church does not provide adequate evidence, primarily because it is unclear as to what application she is addressing her remarks. The instant application has a sole inventor, however the application which she discusses seems to be one with joint inventors. Any explanation as to the efforts made to obtain the signature of a non-signing inventor must be specific to the application involved and may not be to another application. An inventor may co-operate with the filing of one application, but not another.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-9285.



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